



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SITE:	UAM
BREAK:	11.9
OTHER:	VD.1

JUN 07 2001

4WMD

**NOTICE OF POTENTIAL LIABILITY FOR
REMEDIAL INVESTIGATION/FEASIBILITY STUDY (RI/FS)
AND INFORMATION REQUEST
URGENT LEGAL MATTER--PROMPT REPLY NECESSARY
CERTIFIED MAIL--RETURN RECEIPT REQUESTED**

Faircloth Properties, Inc.
c/o Richard L. Faircloth
1304 Hwy 177
Bonifay, Florida 32425



**SUBJ: Request for Information Pursuant to Section 104 of
CERCLA and General Notice of Potential Liability for
United Metals Site in Marianna, Jackson County, Florida (the "Site")**

Dear Mr. Faircloth:

This letter notifies you of the potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9607(a), as amended, that Faircloth Properties, Inc. (hereinafter, "Faircloth Properties") may have incurred with respect to the above-referenced Site. In addition, this letter informs Faircloth Properties of potential response activities at the Site, which it may be asked to perform or finance at a later date, and provides Faircloth Properties with general and site-specific information. This letter also requests that Faircloth Properties respond to the enclosed Information Request.

The United States Environmental Protection Agency (EPA) is currently investigating the release or threatened release of hazardous substances, pollutants or contaminants, or hazardous wastes on or about the above-referenced Site. This investigation requires inquiry into the identification, nature, and quantity of materials generated, treated, stored, or disposed of at, or transported to, the Site and the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from the Site. EPA also is seeking information relating to the ability of persons to pay for or to perform response actions at the Site.

EPA has documented the release or threatened release of hazardous substances, pollutants, or contaminants at the Site and has spent public funds on actions to investigate and control such releases or threatened releases at the Site. EPA has spent, or is considering spending, public funds on actions to investigate and control such releases or threatened releases at the Site. Unless EPA reaches an agreement under which a potentially responsible party (PRP) or parties (PRPs)

will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA, 42 U.S.C. §9604.

The United Metals, Inc. Site is comprised of 24 acres, approximately 2.5 miles south of Interstate 10 on State Road 71 south of Marianna, Jackson County, Florida. The property was used as a lead-acid and nickel cadmium battery salvage facility. EPA believes that United Metals, Inc., began operating at the Site in November 1979 and continued to operate until 1989, when the business was purchased by Anrich Industries, Inc. Following the purchase, Anrich renovated the facility and continued battery cracking operations. Following enforcement actions by the Florida Department of Environmental Protection (FDEP), Anrich ceased operations at the Site in July 1991. In the summer of 1992, the equipment at the facility was dismantled and sold.

The Florida Department of Environmental Regulation (FDER) completed a preliminary assessment in 1993 which documented the presence of elevated levels of lead, which threatened local groundwater quality. FDER referred the Site to the EPA Emergency Response and Removal Branch (ERRB), which conducted a site inspection in March 1995. In June 1995, EPA conducted a sampling investigation of drums and tanks on Site. EPA then conducted a removal action to dispose of the hazardous waste located in tanks and drums at the Site in March 1996.

EPA believes that United Metals recycled primarily lead-acid batteries but also recycled nickel cadmium batteries. The reclaiming process was changed somewhat as regulatory concerns arose, but the basic procedure of dismantling the batteries and separating the recoverable components remained the same. EPA's investigation indicates that the process began when used batteries were offloaded at a loading dock at the northwest part of the recycling operations building onto a conveyor belt which delivered them to a water-cooled saw used to cut the tops off of the batteries. After the tops were removed from the batteries, they fell to another conveyor belt and were dismantled. The plastic battery cases were separated from the lead plates and the plastic casings were crushed and pelletized. Rubbish, posts, and lead oxide were separated from the crushed casings. Trucks transported the lead components and lead oxide to a smelter and the plastic pellets to an extruding facility.

NOTICE OF POTENTIAL LIABILITY

Potentially responsible parties under CERCLA include: the current owners or operators of the Site; persons who at the time of disposal of hazardous substances owned or operated the Site; persons who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for disposal or treatment of hazardous substances; and persons who accept or accepted any hazardous substance for transport to disposal facilities and selected such facilities. Under Section 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6873, and other laws, PRPs may be obligated to implement or pay for response actions deemed necessary by EPA to protect health, welfare or the environment. PRPs may be liable for all costs incurred by the United States Government in responding to any release or threatened release at the Site

including, but not limited to, expenditures for investigations, planning, response, oversight, and enforcement activities. In addition, PRPs may be required to pay damages for injury to natural resources or for their destruction or loss, together with the cost of assessing such damages.

Where the Site conditions present an imminent and substantial endangerment to human health, welfare or the environment, EPA may also issue an administrative order pursuant to Section 106(a) of CERCLA to require PRPs to commence cleanup activities. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to \$27,500 per day, under Section 106(b) of CERCLA, 42 U.S.C. § 6606(b) or imposition of treble damages, under Section 107(c)(3) 42 U.S.C. § 9607(c)(3).

Based on information received during the preliminary investigations of the Site, EPA believes that Faircloth Properties, as the current owner of the Site, may be a responsible party under section 107 of CERCLA, 42 U.S.C. § 9607.

SPECIAL NOTICE AND NEGOTIATION MORATORIUM

We anticipate that Faircloth Properties will receive an additional notice from EPA in the future. That notice will either inform Faircloth Properties that EPA is using the special notice procedures of Section 122(e) of CERCLA, 42 U.S.C § 9622(e), to formally negotiate terms of a consent order or consent decree to conduct or finance Site response activities, or it will inform you that EPA is not using such procedures pursuant to CERCLA Section 122(a). If EPA does not use Section 122(e) special notice procedures, the letter will specify that special notice was not appropriate in this case and will specify what procedures, if any, will be used.

Under Section 122(e), EPA has the discretionary authority to use the special notice procedures if EPA determines that such procedures would facilitate an agreement between EPA and the PRPs and would expedite remedial action at the Site. Use of the special notice procedures triggers a moratorium on certain EPA activities at the Site. The purpose of the moratorium is to provide a period of time when PRPs and EPA may enter into formal negotiations for the PRPs to conduct or finance the response activities at the Site.

The moratorium for the Remedial Investigation/Feasibility Study lasts for 60 days after receipt of the notice. If a good faith offer to perform or finance the activities is submitted by the PRPs within those 60 days, an additional 30 days is provided for further negotiations.

If EPA determines that a good faith offer has not been submitted within the first 60 days of the moratorium period, EPA may terminate the negotiation moratorium under Section 122(e)(4) of CERCLA. EPA is then authorized to commence such cleanup or enforcement actions as it deems appropriate. In the absence of an agreement with the parties to perform or finance the necessary cleanup activities, EPA may undertake these activities and pursue civil litigation against the parties for reimbursement of Site expenditures.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. § 9613(k), EPA will establish an administrative record that will contain documents that will form the basis of EPA's decision on the selection of a response action for the Site. This administrative record will be open to the public for inspection and comment.

PRP RESPONSE

Faircloth Properties is requested to provide EPA with a letter of intent within thirty (30) days of receipt of this letter of its willingness to participate in possible future negotiations for the conducting or financing of response activities at the Site. Its letter should include the appropriate name, address & telephone number for further contact with Faircloth Properties.

If EPA does not receive a timely response in writing, EPA will assume that Faircloth Properties does not wish to negotiate a resolution of its liabilities in connection with the response. Faircloth Properties may be held liable by EPA under Section 107 of CERCLA for the cost of the cleanup activities EPA performs at the Site.

If Faircloth Properties is already involved in discussions with state or local authorities, engaged in voluntary cleanup action, or are involved in a lawsuit regarding this Site, it should continue such activities as appropriate. This letter is not intended to advise Faircloth Properties or direct Faircloth Properties to restrict or discontinue any such activities; however, Faircloth Properties is advised to report the status of those discussions or actions in its response to this letter, and to provide a copy of its response to any other parties involved in those discussions or actions.

INFORMATION REQUEST

Pursuant to the authority of Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604, as amended, Faircloth Properties is hereby requested to respond to the Information Request set forth in Enclosure A hereto.

Compliance with the Information Request is mandatory. Failure to respond fully and truthfully to the Information Request within thirty (30) days of receipt of this letter, or to adequately justify such failure to respond, can result in enforcement action by EPA pursuant to Section 104(e) of CERCLA, as amended. This statute permits EPA to seek the imposition of penalties of up to twenty-seven thousand five hundred dollars (\$27,500) for each day of continued non-compliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations to the Information Request may subject Faircloth Properties to criminal penalties under 18 U.S.C. § 1001.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, et seq.

Please send Faircloth Properties' response to the "PRP Response" section of this letter and its response to the attached Information Request to:

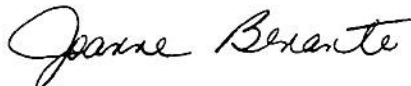
Gregory Tan
U.S. Environmental Protection Agency
EAD-13th floor
61 Forsyth St., S.W.
Atlanta, Georgia 30303

If you have any legal questions regarding this General Notice letter or the Information Request, please direct such questions to Greg Tan, Assistant Regional Counsel, at the address above or at 404-562-9697. If you have any technical questions, please direct such questions to Joe Alfano, Remedial Project Manager, at the above address, or at 404-562-8933.

Due to the seriousness of the problem at the Site and the legal ramifications of Faircloth Properties' failure to respond properly, EPA strongly encourages you to give this matter your immediate attention and to respond within the time specified above.

Thank you for your cooperation in this matter.

Sincerely,



Joanne Benante, Chief
North Florida Section
South Site Management Branch
Waste Management Division

Enclosures: A. Information Request
B. SBREFA Form

cc: Joe Alfano, WMD
Felicia Jackson, WMD
Greg Tan, EAD

FIRST INFORMATION REQUEST

Instructions

1. Answer Every Question Completely.

A separate response must be made to each of the questions set forth in this Information Request. For each question contained in this letter, if information responsive to this information request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.

2. Number Each Answer.

Precede each answer with the corresponding number of the question and the subpart to which it responds.

3. Provide the Best Information Available.

Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Information Request.

4. Identify Sources of Answer.

For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.

5. Continuing Obligation to Provide/Correct Information.

If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to CERCLA Section 104(e) that you supplement your response to EPA.

6. Confidential Information.

The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. Sections 9604(e)(7)(E) and (F), and Section 3007(b) of RCRA, 42 U.S.C. Section 6927(b), and 40 C.F.R. Section 2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

1. the portions of the information alleged to be entitled to confidential treatment;
2. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
3. measures taken by you to guard against the undesired disclosure of the information to others;
4. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
5. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
6. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim

accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

7. Disclosure to EPA Contractor.

Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. 2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen (14) days of receiving this Information Request.

8. Personal Privacy Information.

Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."

9. Objections to Questions.

If you have objections to some or all the questions within the Information Request letter, you are still required to respond to each of the questions.

Definitions

The following definitions shall apply to the following words as they appear in this Enclosure A:

1. The term "you" or "Respondent" shall mean Faircloth Properties, Inc., the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents.
2. The term "person" shall have the same definition as in Section 101(21) of CERCLA: an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.
3. The terms the "Site" or the "facility" shall mean and include the property consisting of twenty-four acres enclosed by a fence within a larger parcel lying approximately 2.5 miles south of Interstate 10 on State Road 71 south of Marianna, Jackson County Florida, and also known as the United Metals Superfund Site.
4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA and includes any mixtures of such pollutants and contaminants with any other substances. Petroleum products mixed with pollutants and contaminants are also included in this definition.
5. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA.
6. The term "solid waste" shall have the same definition as that contained in Section 1004(27) of RCRA.
7. The term "materials" shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site, including but not limited to, all hazardous substances, pollutants and contaminants, hazardous wastes and solid wastes, as defined above and lead and PCBs.
8. The term "hazardous material" shall mean all hazardous substances, pollutants or contaminants, and hazardous wastes, as defined above.
9. The term "non-hazardous material" shall mean all material as defined above, excluding hazardous substances, pollutants and contaminants, and hazardous waste.
10. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known

home address and home telephone number, and present or last known job title, position or business.

11. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

12. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.

13. The term "release" has the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

14. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreement and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produces, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.

15. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

16. The term "arrangement" means every separate contract or other agreement between two or more persons.

17. The terms "transaction" or "transact" mean any sale, transfer, giving, delivery, change in ownership, or change in possession.

18. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.

19. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300, or 40 C.F.R. Parts 260-280, in which case the statutory or regulatory definitions shall apply.

20. The term "property interest" means any interest in property including but not limited to, any ownership interest, including an easement, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns or rents, or owned or rented property.

21. The term "asset" shall include the following: real estate, buildings or other improvements of real estate, equipment, vehicles, furniture, inventory, supplies, customer lists, accounts receivable, interest in insurance policies, interests in partnerships, corporations and unincorporated companies, securities, patents, stocks, bonds, and other tangible as well as intangible property.

QUESTIONS

1. Identify the person(s) answering these Questions on behalf of Respondent.
2. For each and every Question contained herein, identify all persons consulted in the preparation of the answer.
3. Identify the current owner(s) of the Site. State the dates during which the current owner(s) owned, operated or leased any portion of the Site and, as to your ownership, provide copies of all documents evidencing or relating to such ownership, operation or lease, including but not limited to purchase and sale agreements, deeds, leases, etc.
4. Identify all prior owners of the Site known to you. For each known prior owner, further identify, to your knowledge: the dates of ownership and all documents evidencing or relating to such ownership, operation or lease, including but not limited to purchase and sale agreements, deeds, leases, etc.
5. Did you acquire any portion of the Site after the disposal or placement of batteries, battery casings, or other materials containing hazardous substances or materials on, in, or at the Site? Describe all of the facts on which you base the answer to this Question.
6. Identify all prior operators of the Site known to you, including lessors, of the Site. For each such operator, further identify, to your knowledge:
 - a. the dates of operation;
 - b. the business name(s) under which the operator operated; and
 - c. the nature of all prior operations at the Site, including those related to the battery cracking operation or other salvage or recycling operation.
7. Have you ever owned and/or operated a business or businesses at the Site which salvaged or recycled lead-acid, nickel-cadmium or other type of batteries? If so, under what business form did your business(es) operate (e.g., company, corporation, partnership, etc.)? Identify the dates of operation of the business(es).
8. Describe in detail the nature and operations of your business(es) at the Site
9. Identify all persons, including you, your employees, or agents, who have or may have arranged for disposal or treatment of, or who have or may have arranged for transportation of any materials containing hazardous substances or materials to the Site. In addition, identify the following:

- a. the persons with whom you or such other persons made such arrangements;
- b. the type of arrangements made;
- c. approximate date(s) on which such arrangements or shipments took place;
- d. the approximate number of electrical transformers or spent batteries sold to or otherwise obtained by your business, the approximate date(s) of sale, and the condition of the electrical transformers or the batteries at the point at which they were transported to the Site; and
- e. all documents containing information responsive to a.-d. above.
- f. all persons with knowledge, information , or documents responsive to a.-d. above.

10. Identify all persons, including you, your employees, or agents, who have or may have transported any materials containing hazardous substances or materials to the Site. In addition, identify the following:

- a. approximate date(s) on which such shipments took place;
- b. the approximate number of spent batteries or battery casings sold to or otherwise obtained by your business, the approximate date(s) of sale, and the condition of the spent batteries or battery casings at the point at which they were transported to the Site;
- c. all documents containing information responsive to a.-b. above; and
- d. all persons with knowledge, information , or documents responsive to a.-c. above.

11. Describe the acts or omissions of any persons other than your employees, agents or those persons with whom you had a contractual relationship, that may have caused the release or threat of release of hazardous substances at the Site and damages relating therefrom and identify such persons.

Provide details (including dates and materials involved) of all spills or releases of hazardous materials of which you have knowledge and that occurred during the processing of spent batteries or other material containing hazardous substances or materials at the Site. In addition, provide copies of all documents evidencing such incidents.

12. Provide copies of all income tax returns, including all attachments thereto, submitted by Faircloth Properties to the Internal Revenue Service for the last five (5) years.

13. Please provide copies of Faircloth Properties' financial statements, shareholders' reports, financial audits, or other financial reports showing your assets, profits, liabilities, and current financial status for the last five (5) years.

14. Please provide Faircloth Properties' annual reports submitted to the Secretary of State of the State of Florida for the last five (5) years.

15. List all agreements or contracts, including but not limited to insurance policies, which may indemnify you, or your company or business, and its present or past owners, operators, partners, and/or shareholders, with respect to any costs that you may have to pay due to EPA's response action conducted at the Site. Provide a copy of each such agreement, contract, and insurance policy. In addition, for all such insurance policies which you or your company or business had from 1977 to the present, state the name and address of each insurer and of the insured, the amount of coverage under each policy, the commencement and expiration dates for each policy, whether or not the policy contains a "pollution exclusion" clause, and whether the policy covers or excludes sudden, non-sudden or both types of accidents. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.

16. For each and every Question contained herein, if information or documents responsive to this Information Request are not in your possession, custody, or control, then identify the persons from whom such information or documents may be obtained.

17. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:

- a. the document retention policy between 1977 and present.
- b. a description of how the records were destroyed (burned, trashed, etc.) and the approximate date of destruction.
- c. a description of the type of information that would have been contained in the documents.
- d. the name, job title and most current address known by you of the person(s) who would have produced these documents, the person(s) who would have been responsible for the retention of these documents; the person(s) who would have been responsible for the destruction of these documents; and the person(s) who had and/or still may have the originals or copies of these documents.
- e. the names and most current address of any person(s) who may possess documents relevant to this inquiry.

18. Do you have any additional information or documents which may help EPA identify other persons or companies that provided scrap materials, waste materials, and/or recyclable materials to the Site? If so, please provide that information and those documents, and identify the source(s) of your information.

19. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.



Office of Enforcement and Compliance Assurance
INFORMATION SHEET

U.S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and State environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. Many public libraries provide access to the Internet at minimal or no cost.

EPA's Small Business Home Page (<http://www.epa.gov/sbo>) is a good place to start because it links with many other related websites. Other useful websites include:

EPA's Home Page
<http://www.epa.gov>

Small Business Assistance Programs
<http://www.epa.gov/ttn/sbap>

Compliance Assistance Home Page
<http://www.epa.gov/oeca/oc>

Office of Site Remediation Enforcement
<http://www.epa.gov/oeca/osre>

Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance on environmental requirements.

EPA's Small Business Ombudsman Hotline can provide a list of all the hot lines and assist in determining the hotline best meeting your needs. Key hotlines include:

EPA's Small Business Ombudsman
(800) 368-5888

Hazardous Waste/Underground Tanks/
Superfund
(800) 424-9346

National Response Center
(to report oil and hazardous substance spills)
(800) 424-8802

Toxics Substances and Asbestos Information
(202) 554-1404

Safe Drinking Water
(800) 426-4791

Stratospheric Ozone and Refrigerants
Information
(800) 296-1996

Clean Air Technical Center
(919) 541-0800

Wetlands Hotline
(800) 832-7828

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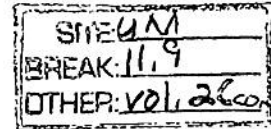




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Mr. Howard Odom



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This letter notifies you of the potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9607(a), as amended, that you may have incurred with respect to the above-referenced Site. In addition, this letter informs you of potential response activities at the Site, which you may be asked to perform or finance at a later date, and provides you with general and site-specific information. This letter also requests that you respond to the enclosed Information Request.

The United States Environmental Protection Agency (EPA) is currently investigating the release or threatened release of hazardous substances, pollutants or contaminants, or hazardous wastes on or about the above-referenced Site. This investigation requires inquiry into the identification, nature, and quantity of materials generated, treated, stored, or disposed of at, or transported to, the Site and the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from the Site. EPA also is seeking information relating to the ability of persons to pay for or to perform response actions at the Site.

EPA has documented the release or threatened release of hazardous substances, pollutants, or contaminants at the Site and has spent public funds on actions to investigate and control such releases or threatened releases at the Site. EPA has spent, or is considering spending, public funds on actions to investigate and control such releases or threatened releases at the Site. Unless EPA reaches an agreement under which a potentially responsible party (PRP) or parties (PRPs) will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA, 42 U.S.C. §9604.

The United Metals, Inc. Site is comprised of 24 acres, approximately 2.5 miles south of Interstate 10 on State Road 71 south of Marianna, Jackson County, Florida. The property was used as a lead-acid and nickel cadmium battery salvage facility. EPA believes that United Metals, Inc., began operating at the Site in November 1979 and continued to operate until 1989, when the business was purchased by Anrich Industries, Inc. Following the purchase, Anrich renovated the facility and continued battery cracking operations. Following enforcement actions by the Florida Department of Environmental Protection (FDEP), Anrich ceased operations at the Site in July 1991. In the summer of 1992, the equipment at the facility was dismantled and sold.

The Florida Department of Environmental Regulation (FDER) completed a preliminary assessment in 1993 which documented the presence of elevated levels of lead, which threatened local groundwater quality. FDER referred the Site to the EPA Emergency Response and Removal Branch (ERRB), which conducted a site inspection in March 1995. In June 1995, EPA conducted a sampling investigation of drums and tanks on Site. EPA then conducted a removal action to dispose of the hazardous waste located in tanks and drums at the Site in March 1996.

EPA believes that United Metals recycled primarily lead-acid batteries but also recycled nickel cadmium batteries. The reclaiming process was changed somewhat as regulatory concerns arose, but the basic procedure of dismantling the batteries and separating the recoverable components remained the same. EPA's investigation indicates that the process began when used batteries were offloaded at a loading dock at the northwest part of the recycling operations building onto a conveyor belt which delivered them to a water-cooled saw used to cut the tops off of the batteries. After the tops were removed from the batteries, they fell to another conveyor belt and were dismantled. The plastic battery cases were separated from the lead plates and the plastic casings were crushed and pelletized. Rubbish, posts, and lead oxide were separated from the crushed casings. Trucks transported the lead components and lead oxide to a smelter and the plastic pellets to an extruding facility.

NOTICE OF POTENTIAL LIABILITY

Potentially responsible parties under CERCLA include: the current owners or operators of the Site; persons who at the time of disposal of hazardous substances owned or operated the Site; persons who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for disposal or treatment of hazardous substances; and persons who accept or accepted any hazardous substance for transport to disposal facilities and selected such facilities. Under Section 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6873, and other laws, PRPs may be obligated to implement or pay for response actions deemed necessary by EPA to protect health, welfare or the environment. PRPs may be liable for all costs incurred by the United States Government in responding to any release or threatened release at the Site including, but not limited to, expenditures for investigations, planning, response, oversight, and enforcement activities. In addition, PRPs may be required to pay damages for injury to natural resources or for their destruction or loss, together with the cost of assessing such damages.

Where the Site conditions present an imminent and substantial endangerment to human health, welfare or the environment, EPA may also issue an administrative order pursuant to Section 106(a) of CERCLA to require PRPs to commence cleanup activities. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to \$27,500 per day, under Section 106(b) of CERCLA, 42 U.S.C. § 6606(b) or imposition of treble damages, under Section 107(c)(3) 42 U.S.C. § 9607(c)(3).

Based on information received during the preliminary investigations of the Site, EPA believes that you, as the owner and/or operator at the time of disposal, may be a responsible party under section 107 of CERCLA, 42 U.S.C. § 9607.

SPECIAL NOTICE AND NEGOTIATION MORATORIUM

We anticipate that you will receive an additional notice from EPA in the future. That notice will either inform you that EPA is using the special notice procedures of Section 122(e) of CERCLA, 42 U.S.C § 9622(e), to formally negotiate terms of a consent order or consent decree to conduct or finance Site response activities, or it will inform you that EPA is not using such procedures pursuant to CERCLA Section 122(a). If EPA does not use Section 122(e) special notice procedures, the letter will specify that special notice was not appropriate in this case and will specify what procedures, if any, will be used.

Under Section 122(e), EPA has the discretionary authority to use the special notice procedures if EPA determines that such procedures would facilitate an agreement between EPA and the PRPs and would expedite remedial action at the Site. Use of the special notice procedures triggers a moratorium on certain EPA activities at the Site. The purpose of the moratorium is to provide a period of time when PRPs and EPA may enter into formal negotiations for the PRPs to conduct or finance the response activities at the Site.

The moratorium for the Remedial Investigation/Feasibility Study lasts for 60 days after receipt of the notice. If a good faith offer to perform or finance the activities is submitted by the PRPs within those 60 days, an additional 30 days is provided for further negotiations.

If EPA determines that a good faith offer has not been submitted within the first 60 days of the moratorium period, EPA may terminate the negotiation moratorium under Section 122(e)(4) of CERCLA. EPA is then authorized to commence such cleanup or enforcement actions as it deems appropriate. In the absence of an agreement with the parties to perform or finance the necessary cleanup activities, EPA may undertake these activities and pursue civil litigation against the parties for reimbursement of Site expenditures.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. § 9613(k), EPA will establish an administrative record that will contain documents that will form the basis of EPA's decision on the selection of a response action for the Site. This administrative record will be open to the public for inspection and comment.

PRP RESPONSE

You are requested to provide EPA with a letter of intent within thirty (30) days of receipt of this letter of your willingness to participate in possible future negotiations for the conducting or financing of response activities at the Site. Your letter should include the appropriate name, address & telephone number for further contact with you.

If EPA does not receive a timely response in writing, EPA will assume that you do not wish to negotiate a resolution of your liabilities in connection with the response. You may be held liable by EPA under Section 107 of CERCLA for the cost of the cleanup activities EPA performs at the Site.

If you are already involved in discussions with state or local authorities, engaged in voluntary cleanup action, or are involved in a lawsuit regarding this Site, you should continue such activities as appropriate. This letter is not intended to advise you or direct you to restrict or discontinue any such activities; however, you are advised to report the status of those discussions or actions in your response to this letter, and to provide a copy of your response to any other parties involved in those discussions or actions.

INFORMATION REQUEST

Pursuant to the authority of Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604, as amended, you are hereby requested to respond to the Information Request set forth in Enclosure A hereto.

Compliance with the Information Request is mandatory. Failure to respond fully and truthfully to the Information Request within thirty (30) days of receipt of this letter, or to adequately justify such failure to respond, can result in enforcement action by EPA pursuant to Section 104(e) of CERCLA, as amended. This statute permits EPA to seek the imposition of penalties of up to twenty-seven thousand five hundred dollars (\$27,500) for each day of continued non-compliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations to the Information Request may subject you to criminal penalties under 18 U.S.C. § 1001.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, et seq.

Please send your response to the "PRP Response" section of this letter and your response to the attached Information Request to:

Gregory Tan
U.S. Environmental Protection Agency
EAD-13th floor
61 Forsyth St., S.W.
Atlanta, Georgia 30303

If you have any legal questions regarding this General Notice letter or the Information Request, please direct such questions to Greg Tan, Assistant Regional Counsel, at the address above or at 404-562-9697. If you have any technical questions, please direct such questions to Joe Alfano, Remedial Project Manager, at the above address, or at 404-562-8933.

Due to the seriousness of the problem at the Site and the legal ramifications of your failure to respond properly, EPA strongly encourages you to give this matter your immediate attention and to respond within the time specified above.

Thank you for your cooperation in this matter.

Sincerely,



Joanne Benante, Chief
North Florida Section
South Site Management Branch
Waste Management Division

Enclosure: A. Information Request

cc: Joe Alfano, WMD
Felicia Jackson, WMD
Greg Tan, EAD

FIRST INFORMATION REQUEST

Instructions

1. Answer Every Question Completely.

A separate response must be made to each of the questions set forth in this Information Request. For each question contained in this letter, if information responsive to this information request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.

2. Number Each Answer.

Precede each answer with the corresponding number of the question and the subpart to which it responds.

3. Provide the Best Information Available.

Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Information Request.

4. Identify Sources of Answer.

For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.

5. Continuing Obligation to Provide/Correct Information.

If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to CERCLA Section 104(e) that you supplement your response to EPA.

6. Confidential Information.

The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. Sections 9604(e)(7)(E) and (F), and Section 3007(b) of RCRA, 42 U.S.C. Section 6927(b), and 40 C.F.R. Section 2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

1. the portions of the information alleged to be entitled to confidential treatment;
2. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
3. measures taken by you to guard against the undesired disclosure of the information to others;
4. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
5. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
6. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim

accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

7. Disclosure to EPA Contractor.

Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. 2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen (14) days of receiving this Information Request.

8. Personal Privacy Information.

Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."

9. Objections to Questions.

If you have objections to some or all the questions within the Information Request letter, you are still required to respond to each of the questions.

Definitions

The following definitions shall apply to the following words as they appear in this Enclosure A:

1. The term "you" or "Respondent" shall mean Howard Odom, the addressee of this Request.
2. The term "person" shall have the same definition as in Section 101(21) of CERCLA: an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.
3. The terms the "Site" or the "facility" shall mean and include the property consisting of twenty-four acres enclosed by a fence within a larger parcel lying approximately 2.5 miles south of Interstate 10 on State Road 71 south of Marianna, Jackson County Florida, and also known as the United Metals Superfund Site.
4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA and includes any mixtures of such pollutants and contaminants with any other substances. Petroleum products mixed with pollutants and contaminants are also included in this definition.
5. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA.
6. The term "solid waste" shall have the same definition as that contained in Section 1004(27) of RCRA.
7. The term "materials" shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site, including but not limited to, all hazardous substances, pollutants and contaminants, hazardous wastes and solid wastes, as defined above and lead and PCBs.
8. The term "hazardous material" shall mean all hazardous substances, pollutants or contaminants, and hazardous wastes, as defined above.
9. The term "non-hazardous material" shall mean all material as defined above, excluding hazardous substances, pollutants and contaminants, and hazardous waste.
10. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

11. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

12. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.

13. The term "release" has the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

14. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreement and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which it produces, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.

15. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

16. The term "arrangement" means every separate contract or other agreement between two or more persons.

17. The terms "transaction" or "transact" mean any sale, transfer, giving, delivery, change in ownership, or change in possession.

18. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.

19. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300, or 40 C.F.R. Parts 260-280, in which case the statutory or regulatory definitions shall apply.

20. The term "property interest" means any interest in property including but not limited to, any ownership interest, including an easement, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns or rents, or owned or rented property.

21. The term "asset" shall include the following: real estate, buildings or other improvements of real estate, equipment, vehicles, furniture, inventory, supplies, customer lists, accounts receivable, interest in insurance policies, interests in partnerships, corporations and unincorporated companies, securities, patents, stocks, bonds, and other tangible as well as intangible property.

QUESTIONS

1. Identify the person(s) answering these Questions on behalf of Respondent.
2. For each and every Question contained herein, identify all persons consulted in the preparation of the answer.
3. State the dates during which you owned or leased any portion of the Site and, provide copies of all documents evidencing or relating to such ownership or lease, including but not limited to purchase and sale agreements, deeds, leases, etc.
4. Did you acquire any portion of the Site after the disposal or placement of batteries, battery casings, or other materials containing hazardous substances or materials on, in, or at the Site? Describe all of the facts on which you base the answer to this Question.
5. Did you formerly own and/or operate a business or businesses at the Site which salvaged or recycled lead-acid, nickel-cadmium or other type of batteries or any other materials containing hazardous substances or materials? If so, under what business form did your business(es) operate (e.g., company, corporation, partnership, etc.)? Identify the dates of operation of the business(es) at the Site.
6. Describe in detail the nature and operations of your business(es) at the Site, especially as it/they related to purchasing, receiving, processing, storing, treating, disposing, or otherwise handling batteries, battery casings, or other materials containing hazardous substances or materials.
7. Describe in detail the nature of your activities at the Site with respect to purchasing, receiving, processing, storing, treating, disposing, or otherwise handling batteries, battery casings, or other materials containing hazardous substances or materials at the Site, including but not limited to lead. In addition:
 - a. Describe each position, formal and/or informal, that you ever held with the Site. Your description should include, but not be limited to, the duties and responsibilities of each position; the actual tasks that you performed, both routinely and occasionally, and the dates that you held each position; and
 - b. Identify the supervisor(s) and/or the person(s) to whom you were responsible during the tenure of each position discussed in the preceding question. For each person identified, describe to the best of your knowledge and belief, the duties and responsibilities of such person(s); the tasks performed by each person identified; and the dates during which time you were responsible to each person identified.

8. Identify all companies, firms, facilities and individuals from whom you or your business obtained, or who supplied batteries, battery casings, or other materials containing hazardous substances or materials, including but not limited to lead, which were processed or handled at the Site. In addition, for each such company, firm, facility and individual, please provide, to the extent practicable, the following:

- a. the name and last known address of each company, firm, facility or individual;
- b. the item(s) purchased or obtained by your business from the company, firm, facility or individual;
- c. whether the item(s) obtained from the company, firm, facility or individual contained any fluid or fluid residues when purchased or obtained and what was done with the fluid or fluid residues; and
- d. whether the item(s) contained lead when purchased or obtained.

9. Provide legible copies of any and all contracts, invoices, receipts, or other documents describing the transactions that the operator implemented with any company, firm, facility or individual involving hazardous substances or materials at the Site including but not limited to lead.

[If the transactions are very numerous, you may condense the information you provide to group together all transactions with a particular company or individual during a particular period.]

10. Identify all persons, including you, your employees, or agents, who have or may have arranged for disposal or treatment of, or who have or may have arranged for transportation of, spent batteries, battery casings or other materials containing hazardous substances or materials to the Site. In addition, identify the following:

- a. the persons with whom you or such other persons made such arrangements;
- b. the type of arrangements made;
- c. approximate date(s) on which such arrangements or shipments took place;
- d. the approximate number of spent batteries sold to or otherwise obtained by your business, the approximate date(s) of sale, and the condition of the batteries at the point at which they were transported to the Site; and
- e. all documents containing information responsive to a.-d. above.
- f. all persons with knowledge, information, or documents responsive to a.-d. above.

11. Identify all persons, including you, your employees, or agents, who have or may have transported spent batteries, battery casings or other materials containing hazardous substances or materials to the Site. In addition, identify the following:

- a. approximate date(s) on which such shipments took place;
- b. the approximate number of spent batteries or battery casings sold to or otherwise obtained by your business, the approximate date(s) of sale, and the condition of the spent batteries or battery casings at the point at which they were transported to the Site;
- c. all documents containing information responsive to a.-b. above; and
- d. all persons with knowledge, information, or documents responsive to a.-c. above.

12. Describe the acts or omissions of any persons other than your employees, agents or those persons with whom you had a contractual relationship, that may have caused the release or threat of release of hazardous substances at the Site and damages relating therefrom and identify such persons.

13. Identify to the best of your knowledge all owners or operators of the Site, including lessors, other than you or a company owned by you, before or after your connection with the Site. For each such owner or operator, further identify:

- a. the dates of operation;
- b. the business name(s) under which the operator operated;
- c. contact name and address for all businesses named in b.; and
- d. the nature of all prior operations at the Site, including those related to the battery cracking operation.

14. Provide copies of all income tax returns, including all attachments thereto, submitted by you to the Internal Revenue Service for the last five (5) years.

15. Supply financial records which clearly show your personal financial position and the financial status of businesses which you own privately or in partnership.

16. List all agreements or contracts, including but not limited to insurance policies, which may indemnify you, or your company or business, and its present or past owners, operators, partners, and/or shareholders, with respect to any costs that you may have to pay due to EPA's response action conducted at the Site. Provide a copy of each such agreement, contract, and insurance policy. In addition, for all such insurance policies which you or your company or business had

from 1977 to the present, state the name and address of each insurer and of the insured, the amount of coverage under each policy, the commencement and expiration dates for each policy, whether or not the policy contains a "pollution exclusion" clause, and whether the policy covers or excludes sudden, non-sudden or both types of accidents. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.

17. For each and every Question contained herein, if information or documents responsive to this Information Request are not in your possession, custody, or control, then identify the persons from whom such information or documents may be obtained.

18. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:

- a. the document retention policy between 1972 and present.
- b. a description of how the records were destroyed (burned, trashed, etc.) and the approximate date of destruction.
- c. a description of the type of information that would have been contained in the documents.
- d. the name, job title and most current address known by you of the person(s) who would have produced these documents, the person(s) who would have been responsible for the retention of these documents; the person(s) who would have been responsible for the destruction of these documents; and the person(s) who had and/or still may have the originals or copies of these documents.
- e. the names and most current address of any person(s) who may possess documents relevant to this inquiry.

19. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 13 2005

SITE: United Metals
BREAK: 11-9
OTHER: v. 7

**NOTICE OF POTENTIAL LIABILITY AND OFFER TO NEGOTIATE
FOR REMOVAL ACTION
URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

Howard Odom



**RE: United Metals, Inc., Superfund Site
Marianna, Jackson County, Florida**

Dear Mr. Odom:

This letter notifies you of the potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9607(a), as amended (CERCLA), that you may have incurred with respect to the above referenced Site. This letter also notifies you of forthcoming removal activities at the Site and requests that you enter into negotiations with EPA to perform such activities.

The United Metals Inc. Site is an abandoned used battery reclaiming facility. The Site is located approximately 2.5 miles south of Interstate 10 on State Road 71 south of Marianna, Jackson County, Florida. The Site recycled lead acid and nickel cadmium batteries from 1979 until 1991. The Site covers a total of 175 acres, twenty-four (24) acres of which are enclosed within a chain link fence and include the facility operations. The Site recycled lead acid and nickel cadmium batteries.

EPA Emergency Response and Removal Branch (ERRB) conducted a review of a ERRB removal action previously conducted at the Site and the recent Remedial Branch response activities. After this review, a removal assessment was conducted on June 30, 2005. The assessment confirmed the presence of approximately 2500 cubic yards of waste sediment/soil stockpiled on Site from a previous response action conducted by United Metals, Inc. The waste stockpiled material is contaminated with lead and arsenic. Lead and arsenic are hazardous substances pursuant to CERCLA Section 101(14), 42 U.S.C. § 9601(14), and 40 C.F.R. Section 302.4. The waste stockpiled material is being stored in the former processing building. However, due to the poor condition of the building, direct exposure to the elements is occurring and the waste stockpiled materials is being released into the environment.

Currently, the EPA Region 4 Superfund Remedial Technical Services Branch is conducting a remedial action at the Site. The Remedial Technical Services Branch advised the Emergency Response and Removal Branch (ERRB) that the waste stockpile is still on Site. The



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contaminated sediments/soils pose a threat to the human health and the environment, due to the deterioration of the processing building and containment structure that houses the stockpile.

The United States Environmental Protection Agency (EPA) has documented the release or threatened release of hazardous substances, pollutants, or contaminants at the Site. EPA has spent, or is considering spending, additional public funds on actions to investigate and control such releases or threatened releases at the Site. Unless EPA reaches an agreement under which a potentially responsible party (PRP) or parties will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA.

PRPs under CERCLA include: current and former owners and operators of the Site as well as persons who arranged for disposal or treatment of hazardous substances sent to the Site, or persons who accepted hazardous substances for transport to the Site. Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. Section 9606(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6873 (RCRA) and other laws, PRPs may be obligated to implement response actions deemed necessary by EPA to protect health, welfare or the environment. PRPs may also be liable for all costs incurred by the United States Government in responding to any release or threatened release at the Site. Such costs include, but are not limited to, expenditures for investigations, planning, response, oversight, and enforcement activities. In addition, PRPs may be required to pay for damages for injury to natural resources or for their destruction or loss, together with the cost of assessing such damages. Where the Site conditions present an imminent and substantial endangerment to human health, welfare or the environment, EPA may also issue an administrative order pursuant to Section 106(a) of CERCLA to require PRPs to commence cleanup activities. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to \$32,500 per day, under Section 106(b) of CERCLA, or imposition of treble damages, under Section 107(c)(3).

Based on information received during investigations of the Site, you, as an owner of the Site at the time of the disposal of hazardous substances, may be a responsible party. Before the United States government undertakes further response actions, EPA is offering the PRPs the opportunity to voluntarily perform the planned response actions described below. EPA recognizes that you may not have the ability to perform or fund the removal response action at the Site. Notwithstanding, EPA is providing you the opportunity to perform or fund the removal response action if you so choose.

SITE RESPONSE ACTIVITIES

At present, EPA is planning to conduct the following activities at the Site: to remove approximately 2500 cubic yards of waste contaminated sediment/soil stockpiled on Site; to restore the excavated areas; and to transport and dispose offsite the waste contaminated sediment/soil in accordance with CERCLA's Offsite Rule.

DECISION NOT TO USE SPECIAL NOTICE

Under CERCLA Section 122(e), EPA has the discretionary authority to invoke special notice procedures to formally negotiate the terms of an agreement between EPA and PRPs to conduct or finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities at the Site while formal negotiations between EPA and the PRP or PRPs are conducted. In this case, EPA has decided not to invoke the Section 122(e) special notice procedures. It is EPA's policy not to use the special notice procedures for a removal action unless there is a six month planning lead time after the decision to respond and prior to the initiation of the action. Since the planning lead time prior to the initiation of this removal action is less than six months, special notice procedures will not be used. Nonetheless, EPA is willing to discuss settlement opportunities without invoking a moratorium, but will initiate the response action as planned if such discussions do not lead to settlement expeditiously.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), EPA will establish the administrative record that will contain documents that will form the basis of EPA's decision on the selection of a response action for the Site. This administrative record will be open to the public for inspection and comment.

PRP RESPONSE AND CONTACT

You are encouraged to contact EPA within seven (7) days of the receipt of this letter to indicate its willingness to participate in future negotiations at this Site. If EPA does not receive a timely response, EPA will assume that you do not wish to perform or otherwise participate in the response actions at the Site, and that you declined any involvement in performing the response activities.

Your response to this notice letter should be sent to:

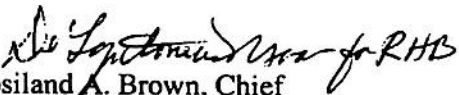
David L. Harbin
Assistant Regional Counsel
U.S. Environmental Protection Agency
Environmental Accountability Division
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

If you have any technical questions relating to this matter, please direct them to Chris Russell, On-Scene Coordinator at (404)562-8855. All legal questions should be directed to David L. Harbin at (404)562-9548.

Due to the seriousness of the problem at the Site and the legal ramifications of failure to respond properly, EPA strongly encourages you to give this matter your immediate attention.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

Sincerely,


Rosiland A. Brown, Chief
Superfund Enforcement and Information
Management Branch
Waste Management Division

notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

Sincerely,

Rosalind H. Brown, Chief
Superfund Enforcement and Information
Management Branch
Waste Management Division

72 9/7/05
Felicia Jackson

DH
David Harbin

SR
Suzanne Rubini

DM 9/7/05
Tony Moore

DM 9/7/05
Rosalind A. Brown
for

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Description of Record	Redacted	Exemption (s)
Personal home address	pages	Partial Redactions
		(b)(6)

